

# BREVARD COUNTY CHARTER REVIEW COMMISSION

## MEMORANDUM NO. 2010-002

TO: Kendall T. Moore, Chair  
Members of the Brevard County Charter Review Commission

CC: Maria Scruggs, Administrative Assistant

FROM: Samuel S. Goren, Office of the General Counsel *SSG*  
David N. Tolces, Office of the General Counsel *DN7*

DATE: March 2, 2010

RE: Brevard County Charter Review Commission ("Commission") / Auditing Authority of the County Commission

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As directed by the Commission, our office has researched the authority of the Board of County Commissioners to perform audits of the funds used by the Brevard County Constitutional Officers (the "Constitutional Officers").<sup>1</sup> Based upon our review of the Florida Constitution, Florida Statutes, and relevant case law, the Brevard County Board of County Commissioners **does not have the authority** under Section 125.01(1)(x), Florida Statutes, to **require or mandate** that the Constitutional Officers submit to an audit at the direction of the Board of County Commissioners. The respective governmental authorities may agree to have audits performed; however, there is no constitutional or statutory provision which would grant the County Commission the authority to perform an audit of the Constitutional Officers, without the Constitutional Officers' consent.

- **Authority of Charter Counties**

The Florida Constitution provides wide latitude for the authority of Charter Counties. Article VIII, §1(g), Florida Constitution, reads in pertinent part: "Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors." In addition, Charter Counties are presumed to have broad powers of self government unless preempted by general law. See Cross Key Waterways v. Askew, 351 So.2d. 1062 (Fla. 1<sup>st</sup> DCA 1977); however, in the area of Constitutional Officers, there are constitutional and state law provisions that **limit** the authority of Charter Counties. Those limitations, as contained in general law, must be recognized in order to insure that the Constitutional Officers are not

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<sup>1</sup> Pursuant to the Art. VIII, Section 1(d), *Fla. Const.*, there are four (4) constitutional officers, the Sheriff, the Supervisor of Elections, the Tax Collector, and the Property Appraiser.

subjected to additional duties which may be inconsistent with the Florida Constitution or general law.

- **Auditing of Constitutional Officers**

The Constitutional Officers are created by the Florida Constitution, and their powers, duties, and functions are provided by general law adopted by the Florida Legislature. Section 218.39, *Fla.Stat.*, requires all Constitutional Officers to provide an annual financial audit within 12 months after the end of its fiscal year. To require any additional auditing at the direction of the County Commission would be an additional duty not provided for by general law. Consequently, an amendment to the Brevard County Charter to provide for an additional audit would be inconsistent with general law, and therefore unconstitutional.

In addition, the proposed charter amendment would not be consistent with the provisions of Section 125.01(1)(x), *Fla.Stat.*, as Section 125.01(1)(x), *Fla.Stat.*, does not apply to Constitutional Officers. Specifically, Section 125.01(1)(x), *Fla.Stat.*, provides that the County has the power to:

- (x) Employ an independent certified public accounting firm to audit any funds, accounts, and financial records of the county and its agencies and governmental subdivisions. Entities that are funded wholly or in part by the county, at the discretion of the county, may be required by the county to conduct a performance audit paid for by the county. An entity shall not be considered as funded by the county by virtue of the fact that such entity utilizes the county to collect taxes, assessments, fees, or other revenue. If an independent special district receives county funds pursuant to a contract or interlocal agreement for the purposes of funding, in whole or in part, a discrete program of the district, only that program may be required by the county to undergo a performance audit. Not fewer than five copies of each complete audit report, with accompanying documents, shall be filed with the clerk of the circuit court and maintained there for public inspection. The clerk shall thereupon forward one complete copy of the audit report with accompanying documents to the Auditor General. (emphasis added)

With respect to the first sentence of Section 125.01(x), *Fla.Stat.*, the County Commission has the authority to, "Employ an independent certified public accounting firm to audit any funds, accounts, and financial records of the county and its agencies and governmental subdivisions." As the County is an independent entity created by Article VIII, Section 1(a), of the Florida Constitution, those agencies and governmental subdivisions established by the County would fall under this auditing provision.

The individual Constitutional Officers, who are established by Article VIII, Section 1(d), of the Florida Constitution, are not subdivisions or agencies of the County, but are

individual elected officers, subject to specific constitutional and statutory requirements, and are not included as part of the County in Section 125.01, *Fla.Stat.* As defined in Section 125.011(1), *Fla.Stat.*, the term County means:

any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county.

Therefore, as the Constitutional Officers are not included in the definition of County, the first sentence of Section 125.01(x), *Fla.Stat.* would not apply to the Constitutional Officers.

If the Charter were amended, pursuant to Article VIII, Section 1(d), *Fla.Const.*, to provide for the abolishment of the Constitutional Officers, and convert the Constitutional Officers to Charter Officers, the Charter Officers could then be brought under the County government. The County Commission would then have the authority to perform the audits authorized pursuant to Section 125.01(x), *Fla.Stat.* See, *Attorney General Opinion 2002-029, April 16, 2002.*

To require an audit pursuant to Section 125.01(1)(x), *Fla.Stat.*, would not be consistent with the relevant provisions of the Florida Constitution or Florida Statutes. As the Florida Supreme Court stated in the case of *The Florida Bar v. Sibley*, 995 So.2d 346 (Fla. 2008):

It is well established in the law that where the Constitution prescribes the manner in which something may be accomplished, the means are exclusive. *State v. Andrews*, 113 So.2d 701, 702 (Fla. 1959). Further, express or implied provisions of the Constitution cannot be altered, contracted, or enlarged by legislative enactment. *Sparkman v. State ex rel Scott*, 58 So.2d 431, 431 (Fla. 1952).

Pursuant to the Florida Supreme Court's holding, any amendment to the Charter to provide for such auditing authority could be considered inconsistent with the general law, and therefore, unconstitutional.

In addition, the second sentence of Section 125.01(1)(x), *Fla.Stat.*, does not provide the County Commission with the authority to conduct performance audits of the Constitutional Officers. The second sentence of Section 125.01(1)(x), *Fla.Stat.*, states, "Entities that are funded wholly or in part by the county, at the discretion of the county, may be required by the county to conduct a performance audit paid for by the county." As the Constitutional Officers are funded by the County pursuant to specific statutory requirements, the County does not have the "discretion" to fund the Constitutional Officers. Therefore, the provisions in Section 125.01(1)(x), *Fla.Stat.*, would not provide

the necessary authority for the County to conduct performance audits of the Constitutional Officers, and the complementary authority to amend the County charter to provide for such authority.

We recognize that the County Attorney, Scott Knox, has a difference of opinion with respect to this conclusion, and that he has opined that the County Commission does have the authority to conduct audits of the Constitutional Officers. In his memorandum dated February 19, 2007, Mr. Knox has opined that Section 125.01(1)(x), *Fla.Stat.*, does provide the County Commission with the authority to conduct audits of the Constitutional Officers. Our office would agree with Mr. Knox that there are divergent viewpoints, and absent any definitive judicial decision regarding the issue, we cannot, with absolute certainty state that our opinion would prevail. We believe, however, that our opinion is the correct interpretation of the law as it exists today.

- **County Fee Officers – Auditing Issues**

In addition, as County Fee Officers, the Constitutional Officers are not required to submit to an audit as directed by the County Commission. Rather, pursuant to Section 218.39, *Fla.Stat.*, the County Fee Officers are only required to submit their annual financial audit to the County for inclusion in the County's annual financial audit. To provide for a charter amendment that would authorize the County Commission to require an audit of the Constitutional Officers would be inconsistent with the provisions contained in Part III of Chapter 218, *Fla.Stat.*

Furthermore, Section 218.31(8), *Fla.Stat.*, defines a County Fee Officer as follows:

“County fee officers” means those county officials who are assigned specialized functions within county government and whose budgets are established independently of the local governing body, even though said budgets may be reported to the local governing body or may be composed of funds either generally or specially available to a local governing authority involved.

The process for each County Fee Officer to adopt a budget, and submit the budget to the County is provided in Section 218.35, *Fla.Stat.* As stated, the process for establishing the budget, and reporting the budget to the County is as follows:

- (1) Each county fee officer shall establish an annual budget for his or her office which shall clearly reflect the revenues available to said office and the functions for which money is to be expended. The budget shall be balanced; that is, the total of estimated receipts, including balances brought forward, shall equal the total of estimated expenditures and reserves. The budgeting of segregated funds shall be made in such manner that the relation between program and revenue source as provided by law is retained.

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(3) Each county fee officer shall make provision for establishing a fiscal year beginning October 1 and ending September 30 of the following year, and shall report his or her finances annually upon the close of each fiscal year to the county fiscal officer for inclusion in the annual financial report by the county.

(4) The proposed budget of a county fee officer shall be filed with the clerk of the county governing authority by September 1 preceding the fiscal year for the budget.

As there is no statutory requirement or authority for the County Commission to audit a County Fee Officer, a charter amendment to require such an audit would not be consistent with Florida statutes, and would therefore be unconstitutional.

- **Constitutional Officers - Specific Financial Authority**

With respect to the specific Constitutional Officers, Section 30.52, *Fla.Stat.*, provides the statutory authority for the Sheriff to handle public funds. Section 30.52, *Fla.Stat.*, reads as follows:

Handling of public funds.—The sheriff shall keep public funds in his or her custody, either in his or her office in an amount not in excess of the burglary, theft, and robbery insurance provided, the cost of which is hereby authorized as an expense of the office, or in a depository in an amount not in excess of the security provided pursuant to s. 658.60 and the regulations of the Department of Financial Services. **The title of the depository accounts shall include the word "sheriff" and the name of the county, and withdrawals from the accounts shall be made by checks signed by the duly qualified and acting sheriff of the county, or his or her designated deputy or agent.**

Section 30.53, *Fla.Stat.*, also preserves the independence of the Sheriff with respect to financial matters. As stated, "The independence of the sheriffs shall be preserved concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing, and setting of salaries of such personnel . . ." To provide a charter amendment that would require a mandatory audit of the Sheriff, could be considered to be inconsistent with this statutory provision, and therefore, be an unconstitutional charter amendment.

Similarly, the budgetary process and financial record keeping of the other Constitutional Officers, as prescribed by state statute, would prohibit the Charter Review Commission from recommending an amendment to the Charter to provide for the County Commission to require any audits. Section 129.202, *Fla.Stat.*, provides that the Supervisor of Elections may maintain their own bank accounts for the supervisor of elections to draw

on their own. In addition, Section 129.202(2), *Fla.Stat.*, similarly guarantees the independence of the Supervisor of Elections with respect to their financial authority. The relevant provision states as follows:

(2) The independence of the supervisor of elections shall be preserved concerning the purchase of supplies and equipment; the selection of personnel; and the hiring, firing, and setting of salaries of such personnel; however, nothing herein contained shall restrict the operation of any lawfully established county civil service system.

The Property Appraiser and Tax Collector, as independent Constitutional Officers are also independent for budgetary and financial purposes. The budget of the Property Appraiser is approved by the Department of Revenue. *See*, Section 192.091(1), *Fla. Stat.* Similarly, the method for fixing the budget of the Tax Collector is governed by Section 19.091(2), *Fla.Stat.* In addition, the Tax Collector and the Property Appraiser are to submit their budgets to the Department of Revenue for review and approval. *See*, Section 195.087, *Fla.Stat.*

- **Conclusion**

There is no authority provided for by the Florida Constitution of Florida law that would authorize the County Commission to audit the Brevard County Constitutional Officers. Therefore, to amend the Brevard County Charter to provide for such an audit would not be consistent with the power granted to the County by the Florida Constitution or Florida Statutes. Unless, and until the electors of the County vote to abolish the Constitutional Officers, and convert those officers to Charter Officers, any amendment to mandate auditing of the Constitutional Officers would therefore be unconstitutional.

If you require any additional information, or have any further questions, please contact our office.

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**BREVARD COUNTY**  
BOARD OF COUNTY COMMISSIONERS

**INTER-OFFICE  
MEMORANDUM**

TO: Honorable Chairperson and Members of the Board of County Commissioners  
FROM: Scott L. Knox, County Attorney  
RE: Clerk's Auditing Authority  
DATE: February 19, 2007

**QUESTION #1:** What is the extent of the Clerk's auditing authority relative to the County Commission?

**SHORT ANSWER:** The Florida Supreme Court has held that the Clerk is the auditor for all auditing functions relative to the County Commission, except where the Board has employed an independent auditing firm to conduct an auditing function such as the conduct of a performance audit.

**QUESTION #2:** Does the County Commission have the authority to retain an independent auditing firm to conduct audits of charter officers?

**SHORT ANSWER:** According to section 125.01(1)(x), Florida Statutes, yes. According to the Attorney General, no.

**Discussion of Question #1**

The following quotes from the Florida Supreme Court decision in *Alachua County v. Powers*, 351 So. 2d 32 (Fla. 1977), are self-explanatory on the issue of the Clerk's auditing authority. In short, the Florida Supreme Court held that the Clerk is the county auditor for all auditing functions except when the Board of County Commissioners employs an independent auditing firm to perform a particular auditing function, such as an internal (performance) audit.

"The Board, as the governing body of the county, has the power to

'Make investigations of county affairs; inquire into accounts, records, and transactions of any county department, office, or officer; and, for these purposes, require reports from any county officer or employee and the production of official records'. Section 125.01(1)(s), Florida Statutes (1975).

In accomplishing this purpose the board also has the power to

'Employ an independent accounting firm to audit any funds, accounts, and financial

records of the county and its agencies and governmental subdivisions. Not less than five copies of each complete audit report, with accompanying documents, shall be filed with the clerk of the circuit court and maintained there for public inspection. The clerk shall thereupon forward one complete copy of the audit report with accompanying documents to the Auditor General, who shall retain the same as a public record for ten (10) years from receipt thereof.’  
Section 125.01(1)(x), Florida Statutes (1975).

The trial court correctly determined that the clerk was to act as county auditor in all auditing functions except when the board employs an independent auditing firm pursuant to Section 125.01(1)(x), Florida Statutes (1975)...

While the clerk has the responsibility to act as pre-auditor of county funds, the board has the right to audit its own funds and make such investigations as may be necessary before the use of any public funds. The constitutional and statutory language discussed above require that the auditing function in making such an investigation be carried out by one of three entities: pre-auditing by the clerk in his capacity as county auditor, performance audit by an independent certified public accountant (or independent accounting firm), and post-audit by the auditor general or the independent auditing firm.  
Section 11.45(3)(a), Florida Statutes (Supp.1976).”

Although in a 1998 public records case, *Nicolai v. Baldwin*, the Fifth District Court of Appeal stated (in passing) that the clerk also functions as the internal (performance) auditor for the County Commission, this Fifth DCA *dicta* has no legal impact on the Florida Supreme Court decision in the *Powers* case which states that performance audits may be undertaken by the clerk, except when the County Commission employs an independent auditing firm pursuant to section 125.01(1)(x), Florida Statutes.

### Discussion of Question #2

Section 125.01(1)(x), Florida Statutes reads as follows:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(x) Employ an independent certified public accounting firm to audit any funds, accounts, and financial records of the county and *its agencies* and governmental subdivisions. Entities that are funded wholly or in part by the county, at the discretion of the county, may

*be required by the county to conduct a performance audit paid for by the county.*

For auditing purposes, the terms "county agency," "government entity" and "local government entity" are defined in section 11.45(1)(b), Florida Statutes, as follows:

(b) "County agency" means a board of county commissioners or other legislative and governing body of a county, however styled, *including* that of a consolidated or metropolitan government, *a clerk of the circuit court*, a separate or ex officio clerk of the county court, *a sheriff, a property appraiser, a tax collector, a supervisor of elections*, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed.

(d) "Governmental entity" means a state agency, *a county agency*, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(e) "Local governmental entity" means a *county agency*

Clearly, section 125.01(1)(x), Florida Statutes authorizes the Board to hire independent auditing firms to conduct audits on funds and accounts of county agencies (defined to include the named charter officers) and performance audits of any entity (defined to include any county agency, including charter officers) funded in whole or in part by the county. The authority to retain outside auditors to perform audits of the charter officers is reinforced by section 125.01(1)(s), Florida Statutes, which empowers the Board to:

(s) Make investigations of county affairs; inquire into accounts, records, and transactions of *any county department, office, or officer*; and, for these purposes, require reports from *any county officer* or employee and the production of official records.

The term "county officer" is defined in Article VIII, section (1)(d) of the Florida Constitution as follows:

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court...

In contrast, in 2002, Attorney General Robert Butterworth, opined that the County Commission cannot hire outside auditors to audit county officers in a perplexing opinion of questionable value since the opinion does not even mention (much less address) the County Commission's authority, under section 125.01(1)(x), Florida Statutes, to employ independent auditors to audit the financial

Honorable Chairperson and Members of the Board of County Commissioners  
February 19, 2007  
Page 4

records and accounts of county agencies (which include the property appraiser, sheriff, clerk, supervisor of elections and tax collector) and to conduct performance audits of entities funded by the county—which include the property appraiser, sheriff, clerk and supervisor of elections and the tax collector. That opinion is set forth for your reference in the pages that follow.

Number: AGO 2002-29  
Date: April 16, 2002  
Subject: Charter county, post audit of constitutional officers

Mr. Scott L. Knox  
Brevard County Attorney  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

RE: CHARTER COUNTIES--CONSTITUTIONAL OFFICERS--AUDITS--  
preserved constitutional officers not subject to post-  
audit by county commission. ss. 11.45, 125.01 and 218.32,  
Fla. Stat.

Dear Mr. Knox:

On behalf of the Brevard County Board of County Commissioners, you ask substantially the following question:

May the Brevard County Commission initiate independent financial and performance audits of county officers, such as the Property Appraiser, the Tax Collector, the Clerk of the Circuit Court, the Supervisor of Elections, and the Sheriff?

In sum:

The Brevard County Commission may not initiate independent financial and performance audits of county constitutional officers, absent abolishment of the offices of the county constitutional officers and a transfer of the functions of such officers to another office created by the charter and made subject to audit procedures of the county commission.

Brevard County operates under a charter which provides:

"The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections are expressly preserved as departments of the County Government under this Charter. All of the powers, duties and functions now or hereafter prescribed by the Constitution and general laws of Florida applicable to such officers in noncharter counties are preserved, except as provided by this Charter." [1]

Under the charter, the county commission is given the authority to "[i]n addition to its internal audits and such State audits as may be required by law, cause an annual independent post-audit by a certified public accountant of any and all government operations of County Government." [2]

The county commission's authority to audit the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections under the county's charter has been questioned, however, in light of the manner in which the offices are preserved as county departments under the charter.

Article VIII, section 1(c), Florida Constitution, provides:

"Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose."

Charter counties possess "all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors." [3] The governing body of a charter county "may enact county ordinances not inconsistent with general law, or with special law approved by vote of the electors." [4] Thus charter counties have home-rule powers to act in a manner that is not inconsistent with state law. [5]

Section 1(d), Article VIII, Florida Constitution, states:

"There shall be elected by the electors for each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, *when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.* When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds." (e.s.)

Thus, a county charter may provide for the abolishment of a county constitutional office when all of the duties of the office prescribed by general law are transferred to another office.[6] By way of example, Volusia County operates under a charter that creates departments such as a Department of Finance, which is responsible for the administration of all financial affairs of the charter government. The Volusia County Charter specifically abolishes the office of tax collector and transfers "all functions and duties of that office now prescribed by the Constitution and the laws of Florida" to the charter-created Department of Finance.[7] The other constitutional county offices were likewise abolished, with all of the attendant duties and functions of such offices transferred to specified departments created by the charter.[8] Under the Volusia County Charter, all county operations operate under a unified budget system, with all officers compensated by salary and no officer receiving compensation by fees.[9] Further, the county council is given the authority, "[i]n addition to the state audit provided by law, [to] cause an annual independent post-audit by a certified public accountant of any and all government operations of the charter government." [10]

As recognized by this office, however, such abolishment and transfer of the officer's duties to a charter-created office does not relieve the newly created office from the requirements of general laws relative to the former constitutional officer. [11]

In the event the constitutional county offices have not been abolished and all of the attendant duties and responsibilities transferred to another charter-created office, the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections would retain their status as constitutional county officers. [12]

This office has previously determined that the clerk of the circuit court, operating as ex officio county auditor, is not authorized to perform post-audit functions on the records of other constitutional county officers. In Attorney General Opinion 86-38, this office was asked whether the clerk of the circuit court for Pinellas County could perform audit functions on behalf of the board of county commissioners in auditing the records of constitutional officers. The county commission had relied upon section 125.01(1)(s), Florida Statutes, which authorizes the county commission to make investigations of county affairs and to "inquire into accounts, records, and transactions of any county department, office, or officer[.]" The Pinellas County Charter, however, had not altered the powers and duties of the county constitutional officers. In discussing the powers and duties of the clerk of the circuit court to perform audit functions, no statutory or constitutional provisions were found expressly directing or authorizing the clerk to perform post-audits on the records of other constitutional officers. Similarly, no constitutional or statutory provisions have been cited that would authorize a county commission to perform post-audit functions on county constitutional officers.

As noted above, the Brevard County Charter preserves the offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections

as county departments. Moreover, the summary on the official ballot for the proposed Brevard County Charter posed whether there should be a charter "preserving elected county officers." [13] I cannot say that such a provision in the charter indicates a clear abolishment of the county constitutional offices, nor does the ballot language appear to have put the voters on notice that such was the intent of the proposed charter. Accordingly, until a court of competent jurisdiction declares otherwise, it is my opinion that the Brevard County Commission does not have the authority to perform post-audit functions on the offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections in Brevard County.

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/tls

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[1] Section 4.1., Brevard County Charter. *See also*, ss. 4.2. (departments of County Government headed by elected officers enumerated in this section not subject to supervision by the County Manager); 4.2.5. (office of tax collector directed by the tax collector responsible for carrying out all function, duties, and requirements prescribed by the Florida Constitution and by law); 4.5.2. (elected county officer is appointing and discharging authority for all employees and senior assistants of the department headed by the officer); 4.6.1. (power or function existing in any county office pursuant to the constitution or by law and placed under the county officer may not be transferred or removed, except by charter amendment); and 7.2.3. (initial county officers; person holding office as clerk of circuit

court, sheriff, property appraiser, tax collector and supervisor of elections of Brevard County constitute the county officers of like name recognized under the charter and shall perform the functions thereof until expiration of their respective terms).

[2] Section 2.9.4., Brevard County Charter.

[3] Article VIII, s. 1(g), Fla. Const.

[4] *Id.*

[5] See, Ops. Att'y Gen. Fla. 90-01 (1990), 86-62 (1986), 81-07 (1981), and 79-109 (1979), which discuss the authority of charter counties to enact ordinances not inconsistent with general law.

[6] *Cf.*, *Dade County v. Kelly*, 99 So. 2d 856 (1957), in which the Court considered the Dade County Home Rule Amendment to the Florida Constitution (s. 11, Art. VIII, Fla. Const. (1885), as amended) and determined that under said amendment, abolition of a county office is a condition precedent to transfer of the office's functions and that charter provisions that purportedly allowed piecemeal transfers of duties or powers while the office was still in existence exceeded the authority granted by the amendment and were void. The language in s. 1(d), Art. VIII, Fla. Const., which expanded the ability to abolish county constitutional officers to all charter counties is more succinct than that contained in the Dade County Home Rule Amendment, but nonetheless, appears to require the same precedent of abolishing the office and transferring its duties to a charter created office that by the terms of the charter may be subject to the county commission's administration.

[7] Section 601.1., Art. VI, Volusia County's Home Rule Charter, Ch. 70-977, Laws of Fla. (1970).

[8] See, Volusia County's Home Rule Charter, Art. VI, ss. 601.1.(1)(b) (abolishing office of clerk of the circuit court and transferring office's duties and functions to newly created department of finance); (2) (abolishing

office of sheriff and transferring its duties and functions to department of public safety); (3) (abolishing office of property appraiser and transferring its duties and functions to department of property appraisal); and (4) (abolishing office of supervisor of elections and transferring all of its duties and functions to the department of elections).

[9] Section 1102., Art. XI, Volusia County's Home Rule Charter.

[10] Section 307(5), Art. III, Volusia County's Home Rule Charter.

[11] See, Op. Att'y Gen. 73-356 (1973). This office recognizes that the Auditor General's authority under s. 11.45, Fla. Stat., or the audit requirements in s. 218.32, Fla. Stat., for local governmental entities could not be circumscribed by charter provisions.

[12] See, *Dade County v. Kelly*, *supra*.

[13] See, Official Ballot, General Election, Brevard County, Florida, November 8, 1994, Proposed Brevard County Charter,

"Shall there be a Brevard County Home-Rule Charter establishing a county government with certain limitations on debt and taxes; authorizing the proposal and adoption of ordinances by voter initiative; preserving elected county officers; providing for exercise of legislative powers by a Board of five commissioners from single-member districts; making commissioners and elected county officers nonpartisan and subject to recall; and providing for an appointed professional manager?"